

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LARRY DARNELL DUNOMES,

Petitioner,

v.

SCOTT RUSSELL,

Respondent.

CASE NO. C12-5456 BHS-JRC

ORDER

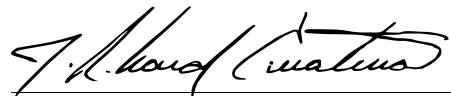
The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge, J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636 (b) (1) (A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner seeks relief from a state conviction, thus, the petition is filed pursuant to 28 U.S.C. § 2254.

Petitioner asks that the Court appoint counsel to represent him (ECF No. 13). Respondent opposes the motion (ECF No. 14). Petitioner does not have a constitutional right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required. This is because the action is civil, not criminal, in nature. *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1991) (*citing McCleskey v. Zant*, 499 U.S. 467, 495 (1991)); *see Ortiz v. Stewart*,

1 149 F.3d 923, 939 (9th Cir. 1998) (“There is simply no constitutional right to an attorney in a
2 state post-conviction proceeding”); *see also Terrovona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir.
3 1988); and Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District
4 Courts.”

5 Petitioner has failed to demonstrate that he is entitled to counsel at this point in the
6 proceedings and the motion is denied.

7
8 Dated this 22nd day of August, 2012.

9
10
11 

12 J. Richard Creatura
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24